

Notice of Allowability

Application No.

10/579,904

Examiner

Jennifer Y. Cho

Applicant(s)

RIVOLTA ET AL.

Art Unit

1621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/19/06.
2. ☒ The allowed claim(s) is/are 1-9.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>5/19/06</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Detailed Action

This office action is in response to Applicant's communication filed on 5/19/2006.

IDS

The information disclosure statement (IDS) filed on 5/19/2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Allowed Claims

Claims 1-9 are allowed over the prior art of record.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

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Authorization for this examiner's amendment was given in a telephone interview with Richard Berman on 6/16/07.

The application has been amended as follows:

1. For claim 1, page 9, line 14, the following is deleted:

"OCO-X-COY" and -OCO-X-ONO₂—is inserted.

2. For claim 4, page 10, line 3, "claim 1-3" is deleted and

—claim 1-- is inserted.

3. For claim 6, page 10, line 10, "claim 1-3" is deleted and

—claim 1-- is inserted.

4. For claim 8, page 10, line 15, "claim 1-3" is deleted and

—claim 1-- is inserted.

5. For claim 5, page 10, line 8, "diethyl" is deleted and

—diethyl-- is inserted.

6. For claim 7, page 10, line 14, "terahydrofuran" is deleted and

—tetrahydrofuran-- is inserted.

7. For claim 9, page 10, line 18, "tetralkylamonium" is deleted and

—tetraalkylammonium-- is inserted; also on line 19, "tetralkylphosphonium" is

deleted and -tetraalkylphosphonium— is inserted.

Reason for Allowance

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Applicant's claimed invention is directed to a process for preparing nitrooxyderivatives of paracetamol, by esterifying a phenolic derivative with a nitrooxy derivative to give the desired product.

The closest prior art is Del Soldato (US 7,186,753). Del Soldato teaches a process for preparing nitrooxyderivatives of paracetamol, by esterifying a phenolic derivative with a halogenated derivative, then nitrating the intermediate, to give the desired product (column 22, lines 1-60).

The prior art is deficient in that the product is synthesized through a substantially different intermediate, requiring two synthetic steps, instead of one, to arrive at Applicant's product.

The prior art neither teaches, nor suggests the limitations of Applicant's claims as described above. Nor would it have been obvious to modify the prior art's process steps to arrive at the instantly claimed invention. There is no motivation to do so.

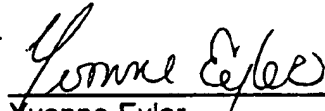
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Y. Cho whose telephone number is (571) 272 6246. The examiner can normally be reached on 9 AM - 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler can be reached on (571) 272 0871. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jennifer Cho
Patent Examiner
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Yvonne Eyler
Supervisory Patent Examiner
Technology Center 1600